

INITIAL STATEMENT OF REASONS

Section 1859.76. New Construction Additional Grant for Site Development Costs.

Specific Purpose of the Regulation

To extend for five years (until January 1, 2024) the additional grant for general site development costs available to school districts under the School Facility Program (SFP).

Need for the Regulation

First paragraph after (d)(3): It was necessary to extend until “no later than January 1, 2024” the additional grant for general site development costs. This additional grant helps school districts cover the extra costs for items such as landscaping, finish grading, driveways, walkways, outdoor instructional play facilities, permanent playground equipment, and athletic fields. The five-year extension provides the additional grant on a continual basis with no interruption and is necessary to prevent school districts from experiencing funding shortfalls in completing new construction projects as planned. Without this amendment, the general site development additional grant will be inoperative and may require school districts to reduce the scope of work for their school projects.

No alternatives were considered because the general site development grant is a supplement to the new construction base grant. However, there has been no evidence to show that this additional grant is needed to complete the projects.

Anticipated Benefits and Economic Impact of the Proposed Regulation

Extending the SFP general site development grant for five years will have a positive impact on California businesses providing landscaping, finish grading, driveways, walkways, outdoor instructional play facilities, permanent playground equipment, and athletic fields, including the companies which supply the materials for these improvements. Failure to implement this regulation may require reducing the scope of work for some school projects.

The State of California benefits from this regulation as it assists in increasing the State’s infrastructure investment resulting in a positive impact to the State’s economy as well as help to support job creation. This regulation will have a positive impact to various business, manufacturing, and construction-related industries such as architecture, engineering, trades and municipalities, along with the creation of an unknown amount of [temporary] jobs.

There is a public health and safety impact assigned to this regulation. School site occupants, especially young children, will have less risk of injury and safer ingress and egress when driveways and walkways are wide, level, and extensive, when finish grading is thorough, when play facilities are of high quality on safe ground cover material, and athletic fields are well-designed with safe playing surfaces, adequate protective fences, and appropriate walkways.

The proposed regulatory amendment is therefore determined to be consistent and compatible with existing State laws and regulations. Proceeding with the implementation of the regulatory amendment will have a positive impact on public health and safety at K-12 public schools because school site occupants will have less risk of injury for the reasons noted above. Further, the proposed regulation provides a positive impact to the creation of jobs, the creation of new businesses, and the expansion of businesses in California. It is not anticipated that the proposed regulation will result in the elimination of existing businesses or jobs within California.

Technical Documents Relied Upon

The State Allocation Board's Action item, dated June 27, 2018, entitled "Additional Grant for General Site Development."

Alternatives to the Proposed Regulatory Action that would be as Effective and Less Burdensome to Private Persons

The SAB finds that no alternatives it has considered would be more effective in carrying out the purpose of the proposed regulation or would be as effective and less burdensome to affected private persons than the proposed regulation or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Alternatives to the Proposed Regulatory Action that would Lessen any Adverse Economic Impact on Small Business

The SAB has determined that the proposed regulation will not have a negative impact on small businesses.

Finding of Significant Adverse Economic Impact on Businesses

The SAB has determined that the adoption of the proposed regulation will not have a negative economic impact on businesses/small businesses because they are not required to directly comply with or enforce the regulation, nor will they be disadvantaged by the regulation. In fact, the demand on the manufacturing and construction-related industries could potentially stimulate the creation of businesses/small businesses in these areas.

Impact on Local Agencies or School Districts

The SAB has determined that the proposed regulation does not impose a mandate or a mandate requiring reimbursement by the State pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. It will not require local agencies, school districts, or charter schools to incur additional costs in order to comply with the proposed regulation.

ECONOMIC IMPACT ASSESSMENT OF REGULATIONS

“Additional Grant for General Site Development”

Proposed State Allocation Board Regulations

The State Allocation Board (SAB), at its June 27, 2018 meeting, adopted a proposed regulatory amendment to the School Facility Program (SFP) Regulations that would extend for five years [until January 1, 2024] the additional grant to school districts for new construction general site development costs. This additional grant helps school districts cover the extra costs for items such as landscaping, finish grading, driveways, walkways, outdoor instructional play facilities, permanent playground equipment, and athletic fields. School districts may be eligible for the additional grant when building new schools and for additions to existing school sites where additional acreage is acquired.

Background and Problem Being Resolved

The SAB first adopted this additional grant under the SFP Regulations at its June 28, 2006 meeting. This proposed regulatory amendment will authorize the first five-year extension of this additional grant. [However, in July 2011, the SAB adopted a two-year extension until January 1, 2014 and all other extensions have been a one-year extension.] This additional grant continues to be extended based upon school community claims of difficulties in covering the extra costs (as noted above), and assertions that general site development costs do not reasonably appear to be included in the SFP per-pupil base grant. However, there has been no evidence to show that this additional grant is needed to complete the projects.

From the inception of the general site development grant in 2006 through December 2023, 837 school facility projects have and may receive this additional grant, averaging \$396,666 per eligible project in State bond cost. [Please refer to Attachment 1 for the bond funds apportioned to date and projected eligible projects for the next five fiscal years (2018/19 through 2022/23, and July through December 2023) for the general site development grant.] School districts may be eligible for the additional grant when building new schools and for additions to existing school sites where additional acreage is acquired.

The SAB is providing approvals for New Construction, Charter School Facilities Program and Facility Hardship/Seismic Mitigation Program (SMP) projects. Facility Hardship/Rehabilitation and SMP projects are health and safety projects that could be eligible for the general site development grant. Health and safety projects are presented to the SAB on an on-going basis.

Description of Regulations to Implement Law

The following five State school bonds were authorized by the Legislature and approved by the State's electorate for purposes of school facility construction:

- Class Size Reduction Kindergarten-University Public Education Facilities Bond Act of 1998 (Proposition 1A)
- Kindergarten-University Public Education Facilities Bond Act of 2002 (Proposition 47)
- Kindergarten-University Public Education Facilities Bond Act of 2004 (Proposition 55)
- Kindergarten-University Public Education Facilities Bond Act of 2006 (Proposition 1D)
- Kindergarten through Community College Public Education Facilities Bond Act of 2016 (Proposition 51)

The Leroy F. Greene School Facilities Act of 1998 established, through Senate Bill 50, Chapter 407, Statutes of 1998, the SFP. The SFP provides a per-pupil grant amount to qualifying school districts for purposes of constructing school facilities and modernizing existing school facilities.

The SAB adopted regulations to implement the Leroy F. Greene School Facilities Act of 1998, which were approved by the Office of Administrative Law and filed with the Secretary of State on October 8, 1999.

Extending this additional grant for five years is necessary to assure that school districts can complete the finishing work for new construction projects as planned. The SAB first adopted this additional grant in 2006, and since then has continued to annually extend the sunset date. However, in July 2011, the SAB adopted a two-year sunset date extension - - to “no later than January 1, 2014.” The SAB now proposes extending the sunset date to “no later than January 1, 2024.”

The proposed amendment is summarized as follows:

Existing Regulation Section 1859.76 provides new construction additional grants for specific types and amounts of site development costs. It provides that the additional grant for general site development costs shall be suspended “no later than January 1, 2019” unless extended by the SAB. The proposed amendment extends the suspension of the additional grant for general site development until “no later than January 1, 2024.”

Anticipated Benefits of the Proposed Regulation

Extending the SFP general site development grant for five years will have a positive impact on California businesses providing landscaping, finish grading, driveways, walkways, outdoor instructional play facilities, permanent playground equipment, and athletic fields, including the companies which supply the materials for these improvements. Failure to implement this regulation may require reducing the scope of work for some school projects.

The State of California benefits from this regulation as it assists in increasing the State’s infrastructure investment resulting in a positive impact to the State’s economy as well as help to support job creation. This regulation will have a positive impact to various business, manufacturing, and construction-related industries such as architecture, engineering, trades and municipalities, along with the creation of an unknown amount of [temporary] jobs.

There is a public health and safety impact assigned to this regulation. School site occupants, especially young children, will have less risk of injury and safer ingress and egress when driveways and walkways are wide, level, and extensive, when finish grading is thorough, when play facilities are of high quality on safe ground cover material, and athletic fields are well-designed with safe playing surfaces, adequate protective fences, and appropriate walkways.

The proposed regulatory amendment is therefore determined to be consistent and compatible with existing State laws and regulations. Proceeding with the implementation of this regulatory amendment will have a positive impact on public health and safety at K-12 public schools because school site occupants will have less risk of injury for the reasons noted above. Further, the proposed regulation provides a positive impact to the creation of jobs, the creation of new businesses, and the expansion of businesses in California. It is not anticipated that the proposed regulation will result in the elimination of existing businesses or jobs within California.

Statutory Authority and Implementation

Education Code Section 17070.35. (a) In addition to all other powers and duties as are granted to the board by this chapter, other statutes, or the California Constitution, the board shall do all of the following: (1) Adopt rules and regulations, pursuant to the rulemaking provisions of the

Administrative Procedure Act, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, for the administration of this chapter.

Government Code Section 15503. Whenever the board is required to make allocations or apportionments under this part, it shall prescribe rules and regulations for the administration of, and not inconsistent with, the act making the appropriation of funds to be allocated or apportioned. The board shall require the procedure, forms, and the submission of any information it may deem necessary or appropriate. Unless otherwise provided in the appropriation act, the board may require that applications for allocations or apportionments be submitted to it for approval.

Impact to California Businesses and Jobs

There is a positive economic impact to California businesses by extending for five years the SFP general site development grant. This will provide the funds to school districts building new construction projects to contract with businesses and suppliers for necessary landscaping, finish grading, driveways, walkways, outdoor instructional play facilities, permanent playground equipment, and athletic fields, thus supporting jobs in these construction-related industries. The proposed regulation:

- Continues to be extended until a complete analysis of the new construction base grant can be completed. The analysis must determine whether the extra costs associated with the additional grant for general site development, (such as landscaping, finish grading, driveways, walkways, outdoor instructional play facilities and permanent playground equipment, and athletic fields), are included in the SFP per-pupil base grant. There has not been conclusive evidence to show that this additional grant is not needed to complete the projects;
- Extends this additional grant until “no later than January 1, 2024”;
- Adds an average \$396,666 per eligible project in State bond funds to the SFP new construction funding model, which includes the pupil grant base amount and other additional grants; and
- Creates an unknown amount of (temporary) jobs in landscaping, concrete, asphalt, finishing, playground and athletic field equipment, and other construction trades, along with stimulating the economy.

The number of school districts that receive funding under the SFP are many and are at different stages in the construction process. Nevertheless, with all the construction activity and funding flowing into the economy, it is reasonable and logical that the extent of the regulation will have a positive impact to job creation and business expansion/creation, which is why it is difficult to quantify the number of jobs and businesses.

Further, by extending the SFP general site development grant for five years, it will have a positive impact on California businesses providing landscaping, finish grading, driveways, walkways, outdoor instructional play facilities, permanent playground equipment, and athletic fields, including the companies which supply the materials for these improvements because school districts will be able to more fully afford them. Failure to implement this regulation may require reducing the scope of work for some school projects.

This regulation affects various business, manufacturing, and construction-related industries such as architecture, engineering, trades and municipalities, which continues to promote the stimulation of the economy and helps to support job creation.

Therefore, the proposed regulation will have a positive impact on the creation of jobs, the creation of new businesses, and the expansion of businesses in California. It is not anticipated that the proposed regulations will result in the elimination of existing businesses or jobs within California.

Benefits to Public Health and Welfare, Worker's Safety, and the State's Environment

- There is a health and safety impact assigned to this regulatory amendment. School site occupants, especially young children, will have less risk of injury and safer ingress and egress when driveways and walkways are wide, level, and extensive, when finish grading is thorough, when play facilities are of high quality on safe ground cover material, and athletic fields are well-designed with safe playing surfaces, adequate protective fences, and appropriate walkways.
- There are continued benefits to the health and welfare of California residents and worker safety. School districts utilize construction and trades employees to work on school construction projects and although this proposed regulation does not directly impact worker's safety, existing law provides for the availability of a skilled labor force and encourages improved health and safety of construction and trades employees through proper apprenticeship and training. Further, public health and safety is enhanced because a properly paid and trained workforce will build school construction projects that are higher quality, structurally code-compliant and safer for use by pupils, staff, and other occupants on the site.
- Extending the SFP general site development grant for five years will have a positive impact on California businesses providing landscaping, finish grading, driveways, walkways, outdoor instructional play facilities, permanent playground equipment, and athletic fields, including the companies which supply the materials for these improvements. Failure to implement this regulation may require reducing the scope of work for some school projects.
- This regulation will have a positive impact to various business, manufacturing, and construction-related industries such as architecture, engineering, trades (carpenters, masons, electricians, roofers, etc.) and municipalities, and supports the creation of an unspecified number of jobs.
- There is no impact to the State's environment from the proposed regulation.